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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,664	07/24/2003	Yoshito Haba	03560.002878.1	8918
5514	7590	01/14/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			LE, THIEN MINH	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

HA

Office Action Summary	Application No.	Applicant(s)	
	10/625,664	HABA, YOSHITO	
	Examiner	Art Unit	
	Thien M. Le	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 10 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10 and 18-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/938,572.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The preliminary amendment filed on 7/24/2003 has been entered. Claims 4-9 and 11-17 have been cancelled. Claims 1-2, 3, 10, and 18-21 are presented for examination.

Specification

The disclosure is objected to because of the following informalities: the brief descriptions of figures 1-2. It is noted that the Related Art Section deemed to describe figures 1-2 as conventional art.

Clarification or appropriate correction is respectfully required.

Drawings

It is deemed from the Description of the Related Art section that figures 1-2 are embodiments of conventional systems. Thus, figures 1-2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. Clarification is respectfully required. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-2 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 6,648,226 (Haba - herein after referred as "the '226 patent") in view of U.S. Patent No. 6,247,647 (Courtney et al. – herein referred as "the '647 patent") .

Claim 1 is rejected in view of claim 1 of the '226 patent in that it recites:

1. An image reading system comprising: (A) an image reading apparatus comprising: (i) an image reading unit having a photoelectric conversion component for reading light from an image and converting the read image to an image signal; (ii) a driving motor for moving said image reading unit and the image relative to each other; (iii) a motor control unit for controlling said driving motor; (iv) a conversion circuit for performing analog-to-digital conversion on the image signal into image data; and (v) an image memory for storing the image data; and (B) an information processing apparatus comprising: (i) a temporary storage memory for reading and temporarily storing the image data stored in said image memory; (ii) a first timer for measuring

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the speed of the data stored in said temporary storage memory; and (iii) a control signal generating unit for outputting a motor control signal to said motor control unit based on the measurement of said first timer, wherein said motor control unit controls said driving motor according to the motor control signal output by said control signal generating unit, wherein, based on the measurement of said first timer, said control signal generating unit outputs the motor control signal which controls said driving motor so as to satisfy the relationship $V1 \cdot t \leq V2$, where V1 represents a data speed at which the image is read to generate the image data, and V2 represents a data speed at which the image data is stored in said temporary storage memory, and wherein said motor control unit controls said driving motor according to the motor control signal.

As can be seen, claim 1 of the '226 patent discloses all limitations of claim 1 of the instant application except: an interface for connecting the reader to external device.

Reference to Courtney et al., the '647 patent, discloses the conventionality of the missing limitation. Specifically, the '647 patent discloses a bar code reader having an interface for connecting the reader to a remote decoder (col. 13, lines 15-30).

It would have been obvious to provide an interface as taught by Courtney for connecting to a remote decode in the system as taught by the '226 patent. The modification removes the decoder from the scanner's housing, and thus, allows compact and lighter designs for the reader and enhance the versatility of the system.

Claim 2 is rejected in view of claim 3 of the '226 patent.

Claims 3, 10, 18, 19-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6,648,226 (herein after referred as "the '226 patent": cited above). Although the conflicting claims are not identical, they are not patentably distinct from each other because they essentially reciting the same limitations.

Claim 3 is rejected in view of claim 1 of the '226 patent in that claim 1 of the '226 patent recites:

1. An image reading system comprising: (A) an image reading apparatus comprising: (i) an image reading unit having a photoelectric conversion component for reading light from an image and converting the read image to an image signal; (ii) a driving motor for moving said image reading unit and the image relative to each other; (iii) a motor control unit for controlling said driving motor; (iv) a conversion circuit for performing analog-to-digital conversion on the image signal into image data; and (v) an image memory for storing the image data; and (B) an information processing apparatus comprising: (i) a temporary storage memory for reading and temporarily storing the image data stored in said image memory; (ii) a first timer for measuring the speed of the data stored in said temporary storage memory; and (iii) a control signal generating unit for outputting a motor control signal to said motor control unit based on the measurement of said first timer, wherein said motor control unit controls said driving motor according to the motor control signal output by said control signal generating unit, wherein, based on the measurement of said first timer, said control signal generating unit outputs the motor control signal which controls said driving motor so as to satisfy the relationship $V1 \cdot t \geq V2$, where V1 represents a data speed at which the image is read to generate the image

data, and V2 represents a data speed at which the image data is stored in said temporary storage memory, and wherein said motor control unit controls said driving motor according to the motor control signal.

As can be seen, though claim 1 of the '226 patent is not identical with claim 3 of the instant application, it recites all limitations set forth in this claim.

Similarly, claims 10 and 18 are rejected in view of claim 7 of the '226 patent in that claim 7 of the patent recites:

7. A controlling method for controlling an image reading system, comprising the steps of: reading image data at a predetermined read speed to generate image data; storing the image data in storage means; reading out the image data stored in the storage means via an interface; temporarily storing the image data, which is read out in the reading out step, in a temporary storage memory; and detecting a speed at which the temporary storage memory temporarily stores the image data, wherein the read speed in the reading step is controlled according to the speed detected in the detecting step, said controlling method further comprising the step of controlling the read speed of the image data to be lower if the speed detected in the detecting step is lower than a predetermined value.

Claim 19 is rejected in view of claim 8 of the '226 patent in that the reading of the image is controlled at a speed lower than speed of the image generating step which is the transmission speed.

Claim 20 is rejected in view of claim 13 of the '226 patent.

Claim 21 is rejected in view of claim 13 of the '226 patent.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thien M. Le whose telephone number is (571) 272-2396. The examiner can normally be reached on Monday - Friday from 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Le, Thien Minh
Primary Examiner
Art Unit 2876
January 4, 2005**